

Please read these terms and conditions carefully. This document along with any service specific terms provided to you by NTE apply, to the exclusion of all terms and conditions proposed by you, to the provision of equipment and services by NTE Limited to you. The Client's attention is particularly drawn to the provisions of clause 10 (Limitation of liability). Please also see our Fair and Acceptable usage policy available at www.nte.works. NTE reserves the right to vary these terms and conditions and our associated service specific terms and policies from time to time. Please check back to our website regularly for our current terms and conditions and policies which will apply to the Services you receive from us. Existing customers will also be provided with notice of updates to our terms and conditions by email.

1.0 INTERPRETATION

1.1 In these Conditions:

"Charges" means the charges for the provision by the Company of Equipment and Services during the Minimum Period and any continuation thereon as amended from time to time in accordance with clause 6;

"Client" means the person, firm or company purchasing or agreeing to purchase goods or services from the Company;

"Client Equipment" means any equipment (including without limitation Purchased Equipment, cabling, wiring, personal computers, PBX, routers, servers, network interface cards and network interface adapters) not forming part of (but which may be connected to) the Company's Equipment and used by the Client in conjunction with any Company Equipment in order to obtain or use the Services;

"Company" means NTE Limited, 7 Camberwell Way, Moorside Park, Sunderland, SR3 3XN (registered in England and Wales under number 3451873);

"Company Equipment" means such equipment owned or used by the Company to provide the Services;

"Company Network" means the telecommunications network operated and maintained by the Company and/or the Company's suppliers;

"Conditions" means the terms and conditions set out in this document as amended from time to time in accordance with clause 2.3;

"Consultancy Services" means the consultancy services more particularly detailed on the Order Form (as modified or substituted by the Company from time to time) to be provided hereunder by the Company to the Client;

"Contract" means the contract for the purchase of Purchased Equipment and provision of the Services comprised of the accepted Order Form and these Conditions, along with any Service Specific Conditions and all other policies and terms the Company provides to the Client or which are incorporated herein by reference;

"Data Processing Addendum" means the Company's data processing addendum, the current version of which is available at www.nte.works (or such other URL as is notified to the Client by the Company from time to time) and forms part of the Contract;

"Data Protection Legislation" means the UK Data Protection Act 2018, the UK General Data Protection Regulation and any other applicable UK or European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications) applicable to a party;

"Emergency Calls" means a call to 999 or 112 or any other number associated with UK emergency services;

"Equipment" means one or more of the Company Equipment, the Client Equipment and the Purchased Equipment as applicable;

“Fair and Acceptable usage policy” means the Company’s fair and acceptable use policy, the current version of which is available at www.nte.works (or at such other URL as is notified to the Client by the Company from time to time);

“Hosted Services” means the hosting services more particularly detailed in the Order Form (as modified by or substituted from time to time) to be provided hereunder by the Company to the Client;

“Intellectual Property Rights” means all intellectual and industrial property rights including patents, know-how, registered trademarks, registered designs, utility models, applications for and rights to apply for any of the foregoing, unregistered design rights, unregistered trademarks, rights to prevent passing off for unfair competition, copyright, database rights, topography rights and any other rights in any invention, discovery or process, in each case in the United Kingdom and all other countries in the world and together with all renewals and extensions;

“Fixed Network Services” means the network services and associated products more particularly detailed on the Order Form (as modified or substituted by the Company from time to time) to be provided hereunder by the Company to the Client;

“Installation Services” means services for the installation of Equipment more particularly detailed in an Order Form (as modified or substituted from time to time) to be provided hereunder by the Company to the Client;

“Laws” means all laws, legislation, regulations, codes of practice or requirements of any relevant government, governmental agency, regulator, judicial system or equivalent, as the same may be updated, amended or replaced from time to time;

“Maintenance Services” means the maintenance services in respect of the Purchased Equipment more particularly detailed in an Order Form (as modified or substituted from time to time) to be provided hereunder by the Company to the Client;

“Minimum Period” means a period of thirty-six (36) months from the Service Commencement Date or such shorter period as stated on the Order Form;

“Order Form” means the Company’s Order Form completed by (or on behalf of the Client) and accepted by the Company to order the Services and/or Purchased Equipment subject to the Contract (or such other form of writing as accepted and acknowledged by both parties as constituting a confirmed and accepted order for Services and/or Purchased Equipment);

“Purchased Equipment” means any equipment purchased by the Client from the Company;

“Rate of RPI” means the retail price index percentage change over 12 months announced by the UK Office for National Statistics (or successor body) in the month preceding application of an RPI Increase;

“RPI Increase” means an increase in the monthly subscription charges pursuant to clause 6.13;

“Services” means any of the services supplied by the Company including, without limitation, the Installation Services, the Fixed Network Services, Hosted Services, Maintenance Services and/or Consultancy Services and all specific services and other services as are identified in the Order Form (as applicable);

“Service Care” means care levels 2, 3 or 4 or as specified by the Company’s then current published literature;

“Service Charge Guide” means all and any information relating to Charges for the Services, available on request from the Company;

“Service Commencement Date” means the earlier of:

(a) The date the relevant Service is available for use by the Client; or

(b) The date the Client first uses the Services;

“Service Specific Conditions” means any additional terms and conditions which are to apply to a Contract as specified in an Order Form or these Conditions in respect of specific Services, for example (and without limitation) the Terms and Conditions for the Provision of Managed Internet Services (MIA);

“Site” means a place of business of the Client or a nominated third party at which the Services and/or Equipment are to be provided as specified in an Order Form;

“Survey” means any survey or other investigations carried out by or on behalf of the Company that the Company in its absolute discretion deems necessary prior to the provision of the Services; and

1.2) In these Conditions:

1.2.1) Headings shall not affect interpretation;

1.2.2) References to "the Contract", "the Services" or any payment includes any part of any of them.

1.2.3) A "person" includes any person, partnership, firm, company (as defined in Section 735 Companies Act 1985), body corporate or corporation (as defined in Section 740 Companies Act 1985) or organisation;

2.0 PROVISION OF EQUIPMENT AND SERVICES

2.1 The Company shall sell and the Client shall buy the Purchased Equipment and the Services set out on the accepted Order Form subject to these Conditions, which supersede any other terms and which govern the Contract to the exclusion of any terms and conditions which the Client purports to apply or which are implied by trade, custom or course of dealing and any such Contract shall be conditional upon the credit status of the Client being to the satisfaction of the Company (in its sole and absolute discretion).

2.2 No terms or conditions endorsed upon, delivered with or contained in the Client's order or other document will form part of the Contract simply as a result of such document being delivered to the Company or referred to by the Client.

2.3 Any variation to these Conditions is of no effect unless originating from the Company or agreed in writing by a Director of the Company.

2.4 The Contract constitute the entire agreement between the Client and Company for the supply of the Equipment and the provision of the Services.

2.5 The Company's employees or agents are not authorised to make any representation concerning the Equipment or Services unless confirmed by the Company in writing, and the Client acknowledges that it does not rely on, and waives any claim for breach of, any such unconfirmed representation (unless such representation is made fraudulently).

2.6 Any advice or recommendation given by the Company or its employees or agents to the Client as to the application or use of the Equipment and Services is for information only and is followed or acted upon entirely at the Client's own risk. The Equipment and Services provided by the Company were not designed for the Client's individual requirements, and the Client is solely responsible for determining the suitability, appropriateness, and fitness for purpose of the Equipment and Services. The Company gives no warranty or guarantee that the Equipment and Services are satisfactory or suitable for the Client's purposes. All warranties, conditions and representations as to the quality of the Equipment or the skill and care with which the Services are performed or the suitability of any of the same are hereby excluded to the fullest extent permitted by law and regardless of whether they would be implied by custom, statute or otherwise.

2.7 Any error or omission in any document or information issued by the Company shall be subject to correction without any liability on the part of the Company.

2.8 The Client acknowledges that the Services and Purchased Equipment are being purchased as part of a business to business transaction and that Consumer Protection laws do not apply to this Contract or to the provision of any of the Services and Equipment to the Client.

2.9 The Client is solely responsible for ensuring its receipt, access to and use of the Services and Equipment is, and at all times remains, in compliance with all applicable Laws.

2.10 The Client shall obtain and maintain all necessary licences, permissions and consents which may be required for the Equipment and the Services before the date on which the Services are to start.

2.11 Any samples, drawings, descriptive matter or advertising issued by the Company, and any descriptions or illustrations contained in the manufacturer or supplier's catalogues or brochures, are issued or published for the sole purpose of giving an approximate idea of the Equipment and/or Services described in them. They shall not form part of the Contract or have any contractual force.

2.12 Each accepted Order for Services and/or Equipment shall be deemed a separate Contract (whether or not included on the same Order Form) to the effect that any delay or failure to supply Services and/or Equipment shall not entitle the Client (to the extent that any such entitlement exists) to terminate a Contract for other Services and/or Equipment or any other Contract entered into under these Conditions.

3.0 QUOTATIONS, SPECIFICATIONS AND ORDERS

3.1 A quotation by the Company is not an offer. Quotations are valid for 30 days only and subject to withdrawal or revision at any time before written acceptance of the Client's order by the Company.

3.2 Each order for Purchased Equipment and Services by the Client is an offer by the Client to buy the Purchased Equipment and Services subject to these Conditions. To order Purchased Equipment and Services, the Client must comply with and submit the Company's Order Form.

3.3 No Order Form submitted by the Client by whatever means is accepted by the Company until the Company confirms its written acceptance or (if earlier) the Company supplies Purchased Equipment and/or the Services to the Client.

3.4 The Client must ensure that the terms of any order included on the Order Form (including any specification) are complete and accurate and that the Company is provided with any necessary information relating to the provision of Services and supply of the Purchased Equipment within sufficient time to enable the Company duly to perform the Contract.

3.5 Notwithstanding clause 3.2 if at its discretion the Company accepts an order for Purchased Equipment and/or Services placed other than on its Order Form, or if the Company installs any Purchased Equipment and/or Services without having received from the Client and/or accepted either the Company's Order Form, the Purchased Equipment and Services shall be provided in accordance with the terms of the Contract in accordance with these Conditions.

3.6 The Company reserves the right to make any changes in the specification of the Equipment and/ or Services which are required for such Equipment or Services to conform with any applicable Laws or, where the Equipment and/or Services are to be supplied to the Client's specification, which do not materially affect their quality or performance.

3.7 Subject to satisfactory Survey, the Company shall use its reasonable endeavours to connect any Company Equipment so that the Services are available by any requested service date. An order may be cancelled by the Company (including after acceptance by the Company) without liability if the results of any Survey are, in the Company's reasonable opinion, unsatisfactory or if it is not technically or commercially feasible to implement and/or support the Services by the requested service date or at all.

3.8 The Client acknowledges that any advertisement of the telephone numbers prior to the connection of the Services (when the telephone number allocation is confirmed) is undertaken at its own risk and expense.

4.0 CLIENT EQUIPMENT

4.1 The Company shall have no liability for any loss or damage arising directly or indirectly from use of the Client Equipment whether or not the Company shall have recommended the use and/or performance of such Client Equipment whether in conjunction with the Services, Equipment, Company Network or otherwise.

4.2 Unless otherwise agreed in writing, the Client is responsible for ensuring that the Client Equipment is programmed, equipped, compatible and connected for use of the Services and Equipment in accordance with the Company's reasonable instructions and any other instructions or safety and security procedures applicable to the use of Client Equipment.

4.3 The Company may from time to time vary the technical and/or operational procedures for use of the Services and the Client is solely responsible for ensuring that the Client Equipment is reprogrammed, equipped, compatible and connected for use of the Services following such variation, and for the cost of such changes that are required.

4.4 The Client must ensure that all Client Equipment is in good working order and complies with applicable standards, approval and all applicable Laws. The Company may require the Client to disconnect (in which case the Client must do so promptly) or may itself disconnect any Client Equipment if in the Company's reasonable opinion:

4.4.1) It does not conform to applicable standards, approvals or any relevant Laws for the time being in force;

4.4.2) It may cause injury to any person or material damage to property; or

4.4.3) It may materially impair the quality of any Services provided by the Company.

4.5 The Company has no liability whatsoever where any inability to use the Services is due to incompatibility between Client Equipment and the Company Equipment, Purchased Equipment or Services, or for any breakdown or failure in Client Equipment or for any loss, corruption or destruction of any data resulting from use of the Services or Equipment.

4.6 It is the sole responsibility of the Client to implement and maintain Equipment security. NTE recommends the Client obtains professional security advice regarding Equipment connected to the Services.

5.0 CANCELLATION AND DELAY

5.1 No order may be cancelled by the Client except with the Company's written agreement and on terms that the Client shall indemnify the Company against all loss (including loss of profit), costs, (including the cost of all labour and materials used), damages, charges and expenses incurred by the Company as a result of cancellation.

5.2 If the Client extends or delays the Contract or fails to take delivery of any Purchased Equipment or Company Equipment or Services at the agreed time or (if no time is agreed) within a reasonable time then the Client shall indemnify the Company against all loss (including loss of profit), costs (including the cost of storage and all labour and materials used), damages, charges and expenses incurred by the Company as a result of such extension, delay or failure.

5.3 The Company reserves the right to defer the date of delivery or performance, to suspend the Services or to cancel the Contract without liability to the Client if the Company is prevented from or delayed in carrying on its business by any cause beyond the Company's reasonable control which includes but shall not be limited to Act of God, explosion, flood, tempest, fire or accident, war or threat of war, terrorist actions, sabotage, insurrection, civil disturbance or requisition, acts, restrictions, regulations, by-laws, prohibitions, enforcement or measures of any kind imposed by any government or regulator, including on the part of any governmental, parliamentary, local or other authority, import or export regulations or embargoes,

strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Company or of a third party), difficulties in obtaining and maintaining access to and use of raw materials, labour, fuel, parts or machinery, power, telecommunications, internet, mobile, infrastructure or other utilities failure or breakdown in machinery, transmission means or infrastructure of any kind). In such circumstances, the Client may also give written notice to cancel the Contract if the cause in question continues for a continuous period in excess of 120 days but in any event shall remain liable to pay for Purchased Equipment or Services delivered or supplied prior to such cancellation by the Company or the Client.

6.0 CHARGES

6.1 The Charges for the Purchased Equipment and the provision of Services are the Company's quoted Charges or, where no Service Charges have been quoted (or a quoted Service Charge is no longer valid), the Service Charges listed in the Company's Service Charge Guide at the date of delivery of Purchased Equipment or provision of Services.

6.2 Charges for the Purchased Equipment and Services are as agreed in writing (including in the accepted Order Form) or as otherwise referred to in the Service Charge Guide. Notwithstanding the aforesaid, Charges are subject to confirmation by the Company. If following any Survey (or other investigation) the Company concludes that it will incur unusual additional costs in providing the Services or Equipment, the Company shall be entitled, on notification to the Client, to increase the Charges by the amount of such costs. Where the Client does not accept such increased Charges, the Contract will come to an end and all Charges payable for Equipment and Services delivered and for all costs, expenses and cancellation charges incurred by the Company as a result of the Contract coming to an end shall be payable by the Client on demand.

6.3 The Company reserves the right at any time before delivery or performance to amend the Charges for the Purchased Equipment or Services to take account of any variation in cost to the Company.

6.4 The Charges are exclusive of any applicable VAT.

6.5 The Client acknowledges that the Charges for the Services are comprised of multiple components, including (but not limited to), standard per minute costs, minimum call charges, connection costs, call configuration costs and minimum call times, as detailed in the Service Charge Guide. The Client further acknowledges that the Charges levied for the Service components are subject to change and any increase or decrease in such component Charges payable or recovered by the Company as a result of changes implemented by the Company or third-party suppliers, regulators or governmental bodies shall be applied to the account of the Client following notification of such changes by the Company.

6.6 Other than as set out in clause 6.2 the Company may increase or implement new Charges by giving the Client 30 days' written notice. Without limitation such notice may be contained in billing information provided to the Client by the Company. Within 7 days of such notification the Client may give notice to the Company to terminate the Contract. If the Client does not terminate in such period, the Client is deemed to have accepted the increased/new charges. The Company may decrease charges at any time without notice and the Client shall have no right to terminate the Contract.

6.7 The Company may, at its discretion, negotiate with the Client with regards to a reduction of charges, including, without limitation, refunds, goodwill credits and loyalty credits (as applicable). Following such negotiation, the Client agrees that, by accepting reduced charges, they will enter into a new 12-month minimum term Contract with the Company, providing that there is less than 12 months remaining of the Client's existing Minimum Term.

6.8 Usage charges will be such charges for the use of the Services as NTE may notify to the Client from time to time by e-mail or by post. Usage charges payable shall be calculated by reference to any data recorded or logged by NTE or its service carrier and not by reference to any data recorded or logged by the Client. NTE shall be entitled to estimate the usage charges in circumstances where the relevant data is not available to NTE in a timely manner, and any estimated usage charge shall be reconciled on a subsequent invoice.

6.9 The Company shall not be responsible for call charges or other charges resulting from fraudulent and/or unauthorised use of the Equipment and/or Services by the Client or any third parties (who are not employees of the Company) and the Client agrees to pay all additional charges related to such fraudulent and/or unauthorised use. Clients are therefore advised to obtain and implement professional security advice regarding equipment connected to the Services.

6.10 The Company will provide invoices either on paper or by email. The Company reserves the right to charge the Client a sum of £2.50 per invoice where the Client chooses to receive paper invoices.

6.11 The Company collects payment by Direct Debit. The Company reserves the right to charge the Client a sum of £4.50 per invoice where the Client chooses not to pay by Direct Debit or cancels a Direct Debit arrangement.

6.12 If, for whatever reason, the CPS service provided by the Company's chosen provider fails to route the Client's calls and the Client's call traffic defaults to the BT Network or other local network; the Client will be liable for the cost of all calls at the Company's BT or other local network standard charges.

6.13. Without prejudice to any of the foregoing, the Company shall be entitled to increase the monthly subscription charges for the Services in April of each year following the Commencement Date by the percentage increase (if any) in the Rate of RPI subject to providing the Client with not less than fifteen (15) days' notice of such change.

7.0 PAYMENT OF CHARGES

7.1 Payment of the Charges for the Purchased Equipment (unless otherwise agreed in writing by a Director of the Company) shall become due on delivery or (at the Company's option) installation of the Purchased Equipment and payment of the Charges for Services (unless otherwise agreed in writing by a Director of the Company) shall be paid by monthly direct debit or such other means of electronic funds transfer as the Company shall decide and shall be due by direct debit or other means 10 working days after the date of the Company's invoice. Time for payment shall be of the essence of the Contract.

7.2 The Client authorises the Company to alter the Client's direct debit instructions according to the relevant Charges from time to time as applicable. On proper termination of the Contract the Client shall be responsible for the cancellation of any direct debit instructions or other authorisations for periodic payment to the Company. Except on proper termination of the Contract the Client acknowledges that it must inform the Company immediately if it proposes to cancel any direct debit instructions. Cancellation of any direct debit instruction shall entitle the Company to suspend and/or terminate the Contract without notice.

7.3 For the purposes of this Contract, payment is received when the Company receives it in cleared funds.

7.4 Payment by the Client or on its behalf shall be made in full without any deduction, set off, counterclaim or withholding (other than any deduction or withholding of tax as required by law).

7.5 The Company reserves the right to claim interest and compensation for debt recovery costs under the Late Payment of Commercial Debts (Interest) Act 1998 and the Late Payment of Commercial Debts Regulations 2002

7.6 Despite any provision allowing credit, payment is due and payable to the Company immediately upon cancellation or termination of the Contract.

7.7 The parties may agree in the accepted Order Form that the capital costs for both Purchased Equipment and Service installation charges may be paid in instalments over the term of the Contract. In the event the Contract terminates or expires before the full capital costs have been paid to the Company, all such outstanding charges shall become immediately due and payable on demand by the Client to the Company.

7.8 If the Client fails to make any payment on the due date then Charges for all Equipment or Services provided or agreed to be provided to the Client shall be immediately due and payable without demand and the Company may:

7.8.1) Cancel the Contract or suspend deliveries or performance to the Client in accordance with clause 8; and/or

7.8.2) Appropriate any payment made by the Client to such of the Equipment or Services (or the goods or services supplied under any other contract between the Client and the Company) as the Company thinks fit.

7.9 The Company is entitled to set off sums owed by the Company to the Client against sums owed by the Client to the Company.

7.10 All billing disputes and queries from the Client must be received by the Company within six (6) months of the date of the relevant Company invoice/credit note.

8.0 PROVISION AND USE

8.1 The Company shall provide the Equipment and Services in accordance with the Contract.

8.2 The Client must promptly supply the Company with all information, access (including remote access) and materials reasonably required by the Company to supply the Equipment and Services.

8.3 The Company shall use the reasonable skill and care expected of a competent telecommunications service provider in providing the Equipment and Services. The Client acknowledges that the Equipment and Services cannot be guaranteed to be fault free and the Company does not warrant error free or uninterrupted use of the Equipment and Services. Notwithstanding any other provision of these Conditions, the Company shall not be liable to the Client in contract, tort (including, but not limited to, negligence), or otherwise for any acts or omissions of its suppliers which affect or otherwise impact the Equipment and/or Services.

8.4 The Client acknowledges that the speed of any broadband service depends on a number of factors including, but not limited to, distance from the exchange, local availability and line quality. The Company gives no warranty or guarantee that the Client's broadband service will produce the maximum speed advertised, (as the final speed is governed by factors that are beyond the Company's reasonable control).

8.5 The Client acknowledges that where the Client requests an expedited service provision, they understand that such service expedites are not guaranteed and where expedites have been requested by the Client, the Client agrees to pay all associated charges regardless of outcome.

8.6 The Client accepts and acknowledges that the Equipment and Services are not guaranteed to be secure and the Company does not guarantee the prevention or detection of any unauthorised attempts to access the Services or Equipment nor any data stored or transmitted using the same.

8.7 The Client undertakes to use the Equipment and Services in accordance with such conditions and/or instructions as may be notified in writing to the Client by the Company from time to time and in accordance with all applicable Laws and the Contract. The Company may from time to time vary the technical and/or operational procedures for use of the Equipment and/or Services.

8.8 The Company's Fair and Acceptable Usage policy forms part of this agreement and includes any restrictions imposed on the Company by the provider to it of the Services or Equipment and is designed to protect the level and quality of the services that the Company offers to all its customers and permits the Company to regulate the Client's use of the Services.

8.9 The Client acknowledges that the broadband services are contended (bandwidth is shared between users) and the Company owes a duty to these users as a whole to preserve its network integrity and avoid network degradation. If, in the Company's reasonable opinion, the Company believes that the Client's use of the Services has or may adversely affect such network integrity or may cause network degradation the Company may change the Client's chosen access rate or manage the Client's Services as the Company sees fit in the circumstances.

8.10 The relevant Regulator or Carrier each have the power to withdraw an allocation of telephone numbers and therefore any telephone number offered to or enjoyed by the Client under the relevant Contract, cannot be guaranteed as being available. The Company shall not be liable for any costs, losses or expenses incurred by the Client in relation to any telephone number which is withdrawn by the relevant Regulator and/or Carrier for any reason (including, without limitation, any costs, losses or expenses related to the advertising of such telephone number or any loss of business or goodwill which is caused by withdrawal of the telephone number).

8.11 Without prejudice to any rights the Client may have to port a number allocated to it, the Client acknowledges it does not own or have the right to sell any number provided to it by the Company. Where the Company has a number from a national numbering plan, the charges and process for porting such number shall be as set out in the Service Charge Guide.

8.12 The Client must not use or allow anyone to use the Services:

8.12.1) To cause annoyance, inconvenience or needless anxiety to anyone;

8.12.2) To send or receive communications that are offensive, abusive, indecent, defamatory, obscene or menacing;

8.12.3) To violate or infringe the rights of any person;

8.12.4) To send or procure the sending of any unsolicited advertising or promotional material;

8.12.5) In breach of the Contract; or

8.12.6) In breach of Laws.

8.13 The Company may at its discretion suspend the Services and/or terminate the Contract if the Client is in breach of the Contract. The Client must indemnify and hold harmless the Company against liabilities, claims, damages, losses and proceedings arising out of or in any way connected with any use of the Services or Equipment in contravention of the Contract, or the Laws.

8.14 Both parties agree to fully co-operate with the Police and any other relevant authorities (including but not limited to the Inland Revenue, Trading Standards, the courts, government agencies, regulators, network operators and/or carriers the Information Commissioner and/or OFCOM and their successors or equivalent organisations from time to time) in connection with any misuse or suspected misuse of the Services, and the Client consents to the Company co-operating with any such authority and with any other network provider, carrier or other telecommunications operators in connection with any misuse or suspected misuse or suspected fraudulent activity related to or connected with the Services and agrees, without prejudice to the generality of the foregoing, that the Company will be entitled to divulge the name and address and account information relating to the Client to such third parties.

8.15 Where, in accordance with the Contract the Company suspends performance of or access to the Services pending compliance by the Client with the Contract, such, suspension may result in one or more of the following actions:

- (a) Call-barring may be implemented, restricting calls to and/or from the Client's system;
- (b) Services may be designated "temporarily out of service"; and
- (c) Access rate may be changed; and
- (d) Disconnection of the Services and the Client's ability to access the Company Network.

8.16 Following a suspension of Services and a rectification by the Client in accordance with the Contract, the Company shall use its commercially reasonable endeavours to resume access to the Services for the Client within a reasonable time provided always that the cause of the suspension has been removed or resolved. The Client acknowledges that the period of time to enable Services to be resumed is dependent upon the cause and the manner of suspension employed by the Company and, as a minimum, periods for resumption of Services would be as follows (such period calculated from the time of notification by the Company that the cause was removed or resolved and that the Service will resume):

- (a) Call barring 12 hours;
- (b) Temporarily out of service 48 hours; and
- (c) Disconnection 14 days

8.17 The Client acknowledges that following a suspension of Services resulting in disconnection under clause 8.16 the telephone numbers previously made available to the Client by the Company may no longer be available and a reconnection charge for each service affected may (at the discretion of the Company) be levied by the Company.

8.18 The Client shall not sell or transfer any telephone number provided to the Client by the Company for use with the Services.

8.19 The Client shall provide a suitable place and conditions for the Company Equipment (including a continuous mains electricity supply and connection points at the Client's own expense where the Company Equipment requires such services) at the Client's Site or in such other location as may be nominated by the Client so as to enable the Company to supply and continue to supply the Services (without cost to the Company) and shall prepare such Site or location at its own expense in accordance with the Company's reasonable instructions.

8.20 The Company shall provide the level of Service Care in relation to the Services as has been agreed on the accepted Order Form. If no reference is made to the Service Care level on the Order Form, the Company will provide Service Care Level 2 or Standard Care.

8.21 If a fault in the Services is reported by the Client, in accordance with the applicable Service Care plan, and:

- 8.21.1) The Company arranges to visit the Site and are unable to obtain necessary access to the Site; or
- 8.21.2) The Company undertake work to correct the fault but finds no fault present, or find that a fault has been caused by the Client Equipment and/or the act or omission of the Client; or
- 8.21.3) The Company agrees to attend a Site outside the normal working hours appropriate to the applicable Service Care plan.

The Company may charge the Client in respect of such actions in accordance with the Service Charge Guide.

8.22 Transfers from third party suppliers

8.22.1 Where the transfer of lines and services from third party suppliers is included on the accepted Order Form, then the provision of any and all relevant existing services supplied to the Client by such third-party supplier will be automatically transferred to the Company and charged for in the Company's invoices in accordance with the Service Charge Guide.

8.22.2 The Client hereby acknowledges and accepts that it is the Client and not the Company who is liable for any charges (including without limitation any early termination charges) made by third party suppliers

for any transfer of lines and services or otherwise, unless it is clearly identified and agreed in writing on the Order Form at the time of the Company formally accepting such Order Form that the Company will pay for specified charges.

8.23 IP Services

8.23.1 IP services include the provision of Voice Over Internet Protocol (VoIP) and Session Initiation Protocol (SIP) Services. Any Contract for IP services which results from an order accepted by the Company, pursuant to clause 2.1 is conditional on the Client acknowledging and accepting that:

- (a) The IP service may not offer all the features or resilience the Client may expect from a conventional circuit-switched fixed line; and
- (b) The IP service may sometimes be limited, unavailable or disrupted due to events beyond the Company's control including but not limited to the following: power disruptions, failures, loss of internet connection and/or the quality of any internet connection;
- (c) Wherever possible, alternative arrangements should be made by the Client to minimise the disruption which could be caused by events such as those outlined in 8.23.1(b);
- (d) The ability for the Client to make Emergency Calls cannot be guaranteed;
- (e) Emergency Calls made using the IP Service may fail if there is a power failure or connection failure;
- (f) It will not be possible to make Emergency Calls if the Company has suspended or interrupted the IP service for any reason;
- (g) The Client understands and acknowledges that the location information provided to the emergency services is limited to the site address provided by the Client in the Order Form and depending on the circumstances this may not be where the call was originated. It is the Client's responsibility to notify the Company of any changes to this information.
- (h) In the event that the users of the IP service have the option to work from different permanent locations, we recommend that the Client registers and updates the location information of these users with the Company whenever accessing the IP services from a new location or different locations, so that up-to-date information can be used for emergency location information.
- (i) The Client shall be required to provide/confirm his location when making an IP originated Emergency Call to enable the correct emergency organisation to respond; and
- (j) An IP originated Emergency Call will not receive the same network priority at all points over non-emergency calls as an Emergency Call made on a mobile network or on a circuit-switched fixed line. In any event, the Company shall not be liable for any losses, damages, costs or expenses caused by or relating to a failure (whether caused by Equipment or Services) to connect with the emergency services, howsoever such failure arises.
- (k) By ordering IP services, the Client confirms that it shall be the Client's sole responsibility to make available to users of the IP services, alternative means of accessing emergency calls services, and to inform or otherwise make aware users of the IP services purchased by the Client of the possible limitations of this service set out above.

9.0 RISK AND PROPERTY

9.1 All Company Equipment and Purchased Equipment shall remain the sole and absolute property of the Company and title to and legal ownership of the Purchased Equipment shall not pass to the Client until the following has occurred:

- 9.1.1) The full price of the Purchased Equipment has been received by the Company; and
- 9.1.2) All other sums which are due from the Client on any account with the Company have been received by the Company.

9.2 If payments received from the Client are not stated to refer to a particular invoice the Company may appropriate such payments to any outstanding invoice.

9.3 The Purchased Equipment shall be at the Client's risk at the time of delivery, or if the Client has arranged to collect the goods, at the time of collection. The Client is required to inspect the Purchased Equipment on receipt and notify the Company of any defects or complaints within 7 days of receipt.

9.4 Until ownership of the Purchased Equipment passes to the Client, the Client must:

9.4.1) store it at its own cost at the Site separately from any other goods and in a manner, which makes the Purchased Equipment readily identifiable as the equipment of the Company;

9.4.2) not destroy, deface or obscure any identifying mark or packaging of the Purchased Equipment;

9.4.3) maintain the Purchased Equipment in a satisfactory condition insured on the Company's behalf for their full price against all risks.

9.5 The Company may, to discharge any overdue payment from the Client, recover or resell the Purchased Equipment.

9.6 In order to verify the Client's compliance with its obligations under clause 9.4 and to exercise its rights under clause 9.5 the Company shall be entitled by its employees or agents without notice to enter the Client's Site or such other premises where the Purchased Equipment is located.

10.0 LIMITATION OF LIABILITY: THE CLIENT'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE

10.1 The following clauses set out the entire financial liability of the Company (including any liability for the acts or omissions of its employees, agents or subcontractors and liability for indemnities) to the Client in respect of any breach of the Contract, any representation, misrepresentation, statement or act or omission (including negligence and breach of statutory duty) arising under or in connection with the Contract and in respect of any performance, contemplated performance or lack of performance and the Company shall not be liable for any financial, consequential or indirect loss suffered by the Client or any third party howsoever such loss arises.

10.2 All warranties, conditions or other terms implied by statute, common law, trade usage or otherwise are excluded to the fullest extent permitted by law but this exclusion does not apply to any liability which cannot legally be limited, including but not limited to liability for:

(a) death or personal injury caused by negligence;

(b) fraud or fraudulent misrepresentation; and

(c) breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).

10.3 Subject to clause 10.2 and further to clause 10.1, the Company's total liability to the Client in respect of all matters within any contract year shall not exceed the cap.

10.4 In Clause 10.3:

(a) **cap.** The cap is the greater of ten thousand pounds sterling (GBP£10,000) and one hundred per cent (100%) of the total charges under the Contract in the contract year in which the breaches occurred;

(b) **contract year.** A contract year means a 12-month period commencing with the Commencement Date or any anniversary of it; and

(c) **total charges.** The total charges means all sums paid by the Client and all sums payable under the Contract in respect of the relevant (breaching) goods and services actually supplied by the Company and to which the claim relates, whether or not invoiced to the Client.

10.5 Subject to clause 10.2, this clause 10.4 sets out specific heads of loss which shall not be recoverable from the Company in any circumstances:

(i) loss of profits;

- (ii) loss of sales or business;
- (iii) loss of agreements or contracts or liability to third parties of any kind;
- (iv) loss of anticipated savings;
- (v) loss of use, corruption or destruction of software, data or information;
- (vi) loss of or damage to goodwill; and
- (vii) indirect or consequential or special loss; whether or not the Company knew or ought to have known that such losses or damages might be incurred.

10.6 Unless the Client notifies the Company that it intends to make a claim in respect of an event within the notice period, the Company shall have no liability for that event. The notice period for an event shall start on the day on which the Client became, or ought reasonably to have become, aware of the event having occurred and shall expire twenty-four (24) months from that date. The notice must be in writing and must identify the event and the grounds for the claim in reasonable detail.

10.7 This clause 10 shall survive termination of the Contract.

11.0 INDEMNITY

11.1 The Client agrees to indemnify the Company against any damages, losses, costs, claims or expenses incurred by the Company towards a third party arising out of or in connection with the Equipment or Services provided by the Company or their operation or use and whether arising by reason of the negligence of the Company or otherwise.

11.2 The Client accepts full and complete liability for any costs, losses or damages incurred as a result of fraud and agrees to indemnify the Company against any costs, losses or damage suffered by the Company arising from any fraudulent activity made, including any costs and expenses reasonably incurred by Company in investigating any such fraudulent activity. For the avoidance of doubt, fraudulent activity includes but is not limited to:

- (a) Calls made from the Client's Equipment without their knowledge;
- (b) and/or calls made utilising the Client's authentication details;
- (c) and/or calls made from an authenticated IP address.

It is the sole responsibility of the Client to implement and maintain Equipment security, independently of the Company, and the Company recommends that the Client obtain professional security advice with regard to Equipment connected to the Services.

12.0 DURATION AND TERMINATION

12.1 The minimum term of the Contract is 36 months (the Minimum Period) unless the accepted Order Form states otherwise.

12.2 In relation to the Services, once the Order Form is accepted by the Company in accordance with clause 3 the Contract shall come into effect on the earlier of the date the Client signs the Standard Order Form (subsequently accepted) or the Service Commencement Date.

12.3 The Contract shall continue in force unless either party terminates the Contract by giving the other party 30 days' written notice, or such shorter period as the Company may agree. Such notice period shall not be valid unless it expires on or after the end of the Minimum Period.

12.4 Notwithstanding clause 12.3, the Company may terminate the Contract immediately on written notice if:

- 12.4.1) Any Survey is not, in the Company's discretion, satisfactorily completed;
- 12.4.2) The Client is the subject of bankruptcy or insolvency proceedings in the United Kingdom or elsewhere, a liquidator, trustee in bankruptcy, receiver or administrator (or equivalent) is appointed over

any of the Client's assets or the Client enters into any formal or informal composition or arrangement (or equivalent) with the creditors of the Client or the Company reasonably believes that such events are reasonably likely to occur. For the purposes of this clause 12.4.2 the Client shall include the Client's direct and/or indirect parent company and "Client" shall be interpreted accordingly;

12.4.3) The Client makes a material misstatement in the details the Client has supplied to the Company to enable the Company to provide the Services;

12.4.4) The Client materially breaches (including without limitation failure to pay any Charges promptly) the Contract or any other agreement the Client may have with the Company or a member of the Company's group;

12.4.5) The Company suspects on reasonable grounds that the Client may have committed or may be committing;

(a) A breach of Laws whether in its receipt, access to and use of the Services and/or Purchased Equipment or otherwise; and/or

(b) Any fraud against the Company or any third party.

12.4.6) The Client fails to meet a reasonable standard of creditworthiness; or

12.4.7) Any contract between the Company and a third-party provider of telecommunications services is terminated where such termination affects the provision of the Services;

12.4.8) Without prejudice to the generality of the foregoing, the Client is not compliant with clause 2.9.

12.5 If the Company requests the Client to do so but the Client fails to return to the Company (or as otherwise notified to the Client by the Company) the Order Form duly signed by the Client within 14 days of the Service Commencement Date (or any other date notified to the Client by the Company) the Company shall be entitled (but not obliged) without notice to terminate the Contract or, without prejudice to its right so to terminate, to downgrade or suspend the Services as it thinks fit.

12.6 On termination of the Contract by reason of the Client's breach of the Contract or other default, the Client shall be liable to pay to the Company 100% of the Charges that would otherwise have been payable by the Client during the Minimum Period. Such sum to be calculated by taking the average monthly Charges incurred during the period from the Service Commencement Date to the date of termination multiplied by the number of months remaining in the Minimum Period. Such sums shall be paid by way of liquidated and ascertained damages by the Client to the Company.

12.7 On termination or expiry of the Contract the Client must allow the Company promptly to remove the Company Equipment. If the Client fails to do so, then the Company may enter the Client's premises and take possession of them. If the Client delays prompt removal of the Company Equipment following termination or expiry of the Contract, the Company shall, until such removal is effected, be entitled to continue to charge the Client and the Client shall pay such Charges together with any additional costs and expenses caused to the Company by such delay and the Client shall remain liable for all Charges incurred by the Client through the use of the Company Network pending transfer of the Services to an alternative provider. Until the Company Equipment has been returned, the Client shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract.

12.8 The right to terminate the Contract shall not prejudice any other right or remedy of the Parties in respect of any rights, obligations or liabilities-accrued prior to termination, including, without limitation termination under clause 5.3.

12.9 Without affecting any other right or remedy available to it, the Company may suspend the supply of Services under the Contract or any other contract between the Client and the Company if the Client fails to pay any amount due under the Contract on the due date for payment, the Client becomes subject to

any of the events listed in clause 12.4, or the Company reasonably believes that the Client is about to become subject to any of them.

13.0 HEALTH AND SAFETY

The Client agrees to:

13.1 Pay due regard to all information supplied by the Company relating to the use of the Equipment necessary to ensure the Equipment will be safe and without risk to health at all times;

13.2 Indemnify the Company in respect of any and all claims arising from the Equipment being unsafe as a result of the Client's activities or use of the Equipment or Services other than in accordance with the Company's advice, recommendations and information.

14. CALL MONITORING

The Client agrees that the Company may monitor, and record calls made to or by the Company by or to the Client (and/or any of their employees or personnel), for training purposes, to improve the quality of its customer services and to assist with complaint handling. The Client undertakes to make its employees and personnel aware of the rights reserved by the Company under this clause.

15.0 GENERAL

15.1 All descriptions, drawings and particulars relating to the goods and or services in any catalogues, leaflets, brochures or other documents are for illustrative purposes only and do not form part of the agreement between the Company and the Client. All representation as to the performance of the goods is based on information supplied by the manufacturer of the goods and relates to their performance in normal conditions and when used correctly.

15.2 Each right or remedy of the Company under the Contract is without prejudice to any other right or remedy to the Company, whether or not under the Contract.

15.3 If any provision of the Contract is found by any competent authority to be invalid, unenforceable or unreasonable, it shall be severed from the remainder of the Contract which shall (subject to termination at the discretion of the Company), continue in full force and effect.

15.4 Failure or delay by the Company in enforcing or partially enforcing any provision or breach of the Contract is not a waiver of any of its rights or provisions under the Contract.

15.5 Any Director or representative of the Client who signs on behalf of the Client will be deemed an authorised signatory and thereby the Company shall be entitled to rely on such signatory as binding the Client to the obligations set out in these Conditions and any relevant Service Specific Conditions in all respects.

15.6 Any notice to be given by either party to the other under these Conditions must be in writing addressed to that other party at its registered office or principal place of business or such other address as may have been notified for these purposes.

15.7 Notices shall be delivered personally or sent by first class post or sent by facsimile transmission to the Company's registered address.

15.8 A notice is deemed to have been received:-

15.8.1) If delivered personally, at the time at delivery;

15.8.2) If sent by prepaid first-class post; on the third working day after posting (exclusive of the day of posting);

15.8.3) If sent by facsimile transmission, on a working day prior to 5.00pm at the time of completed transmission and otherwise on the next working day.

15.9 The Contract does not create, confer or purport to confer any benefit or right enforceable by any person not a party to it by virtue of the Contracts (Rights of Third Parties) Act 1999.

16.0 CONFIDENTIALITY AND DATA PROTECTION

16.1 The Company and the Client will keep in confidence any information of the other; in whatever form or format and whether written or oral, of a confidential nature obtained under or in connection with a Contract except to the extent any disclosure is required by law. The Client and the Company will not, without the consent of the other, disclose such information to any person other than:

16.1.1 their employees, contractors or professional advisers who shall require the information in order for the Client or the Company to fulfil its obligations under the relevant Contract; or

16.1.2 in the case of the Client, its users to the extent that they are required to use or access the Service and/or Equipment.

16.2 Information shall not be treated as confidential if it is:

16.2.1 lawfully in the public domain; or

16.2.2 lawfully in the possession of the Client or the Company before disclosure from the other has taken place; or

16.2.3 obtained from a third person who is entitled to disclose it; or

16.2.4 replicated independently by someone without access or knowledge of the information.

16.3 Following termination of the relevant Contract for whatever reason, each party who has received any confidential information of the other party shall without delay:

16.3.1 return to the other party, in a form capable of delivery, anything containing or recording the confidential information, whether in the form of documents, computer records, audio tapes, video tapes, CD-ROMS, USB or any other media; and

16.3.2 certify in writing that any such confidential information not returned has been destroyed or made permanently unusable;

16.4 The Company shall not be required to return confidential information pursuant to clause 16.3 where continuing use or disclosure of such confidential information is necessary in order for the Company to exercise its rights or perform Services under the Contract or where the Company is required to maintain such confidential information pursuant to any Laws or for any other purpose specified in this Contract.

16.5 Both parties will comply with all applicable requirements of the Data Protection Legislation. The Company shall process personal data in accordance with the Company's privacy policy.

16.6 To the extent that the Services are used to process personal data on behalf of the Client in respect of which the Client is controller, and therefore where the Company is acting as a processor on behalf of the Client, the parties agree that the terms of the Data Processing Addendum shall apply between them in respect of those processing activities.

17.0 INTELLECTUAL PROPERTY RIGHTS

17.1 Any Intellectual Property Rights supplied by the Company to the Client, or specifically produced by the Company for the Client, in connection with a Contract, shall be and remain the exclusive property of the Company and/or its relevant licensor and to the extent that any such rights vest in the Client they shall be deemed to be and shall be assigned to the Company by the Client immediately upon demand. The Client shall not disclose to any third party or use any such Intellectual Property Rights except to the extent required for the performance of the Client's obligations under a Contract or enjoyment of the Purchase Equipment and Services. Any Intellectual Property Rights belonging to, licensed to or supplied by the Client shall be used by the Client only as expressly permitted under the terms of this Contract and in accordance

with the instructions of the Company.

17.2 Any licence provided by the Company to the Client in relation to the Intellectual Property Rights shall be personal to the Client, non-exclusive, revocable and (unless stated otherwise in the agreed Order Form) limited to the United Kingdom and, in the absence of earlier revocation, shall terminate upon termination of the relevant Contract.

17.3 By using the Services the Client shall provide the Company with information and data, title to which shall remain vested in the Client (or its licensors). The Client warrants, represents and undertakes that it has all necessary rights and licences to use and transmit over the internet to the Client all information and data which will be shared with the Company and hereby grants the Company a non-exclusive licence to use such information and data for the purposes of performing the Services.

18.0 ASSIGNMENT

18.1 The Company may assign, subcontract or otherwise transfer the Contract or any part of it and may dispose of or deal in any manner with any of its rights or beneficial interests under it.

18.2 The Client may not assign the Contract or dispose of or deal in any manner with any of its rights or beneficial interests under it.

19.0 GOVERNING LAW AND JURISDICTION

19.1 The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by, and construed in accordance with the law of England and Wales

19.2 Each party hereby irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.

End – 4.1